

**Exhibit D**

**Commonwealth of Massachusetts  
WORCESTER SUPERIOR COURT  
Case Summary  
Criminal Docket**

**Commonwealth v Hendrickson, Robert W**

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Details for Docket: WOCR1990-02254

**Case Information**

<b>Docket Number:</b>	WOCR1990-02254	<b>Caption:</b>	Commonwealth v Hendrickson, Robert W
<b>Entry Date:</b>	08/17/1990	<b>Case Status:</b>	Crim 1 (204 Worcester)
<b>Status Date:</b>	09/18/1995	<b>Session:</b>	Disposed (appeal denied)
<b>Lead Case:</b>	NA	<b>Deadline Status:</b>	Deadline act
<b>Trial Deadline:</b>	08/30/1993	<b>Jury Trial:</b>	NO

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**Parties Involved**

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2 Parties Involved in Docket: WOCR1990-02254

<b>Party Involved:</b>		<b>Role:</b>	Defendant
<b>Last Name:</b>	Hendrickson	<b>First Name:</b>	Robert W
<b>Address:</b>	NCCI Gardner	<b>Address:</b>	P.O. Box 466
<b>City:</b>	Gardner	<b>State:</b>	MA
<b>Zip Code:</b>	01440	<b>Zip Ext:</b>	
<b>Telephone:</b>			

<b>Party Involved:</b>		<b>Role:</b>	Plaintiff
<b>Last Name:</b>	Commonwealth	<b>First Name:</b>	
<b>Address:</b>		<b>Address:</b>	
<b>City:</b>		<b>State:</b>	
<b>Zip Code:</b>		<b>Zip Ext:</b>	
<b>Telephone:</b>			

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**Attorneys Involved**

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1 Attorneys Involved for Docket: WOCR1990-02254

**Attorney  
Involved:**

**Last Name:** Schubert  
**Address:** 1365 Main Street  
**City:** Springfield  
**Zip Code:** 01103  
**Telephone:** 413-746-1313  
**Fascimile:** 413-746-3102

**Firm Name:**

**First Name:** Greg T  
**Address:**  
**State:** MA  
**Zip Ext:**  
**Tel Ext:**  
**Representing:** Hendrickson, Robert W  
 (Defendant)

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**Calendar Events**


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No Calendar Events found for Docket: WOCR1990-02254.

There are currently no calendar events associated with this case.

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**Full Docket Entries**


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71 Docket Entries for Docket: WOCR1990-02254

<b>Entry Date:</b>	<b>Paper No:</b>	<b>Docket Entry:</b>
08/17/1990	1	Indictment returned
11/26/1990		RE offense 1: Guilty verdict
08/30/1993		Continued from docket sheet
08/30/1993		Notice of assembly of record; mailed to App Crt per Rule 9(d)
08/30/1993		together with 2 certified copise of docket entries and Clerk's
08/30/1993		Statement of Case. Notices mailed to John J. Conte, District Attorney
08/30/1993		and to Defendant.
01/26/1994	20	Dismissal under Standing Order #17A filed(Dated in Appeals Court on
01/26/1994	20	1/7/94)
10/24/1994	21	Deft files Motion for New Trial Pursuant to Mass.R.Crim.P. 30 and
10/24/1994	21	Affidavit and Brief in Support, filed.
10/28/1994		Mo. #21 - This motion will not be considered. The defendant filed a
10/28/1994		Motion for New Trial 7/21/92(after the denial of is direct appeal on
10/28/1994		5/15/91). It was denied 7/23/92 by the trial judge. He noticed an
10/28/1994		appeal 8/11/92. After the trial judges retirement, he filed a Motion
10/28/1994		to Amend his Motion for New Trial on 9/17/92. This justice Denied it
10/28/1994		3/1/93. The Appeals Court dismissed his appeal 1/7/94., He now files
10/28/1994		this Second Motion for New Trial, all of the grounds asserted were

10/28/1994		well known prior to his previous motion(Travers,J.) - Notified D.A.
10/28/1994		and Defendant.
11/04/1994	22	Notice of appeal RE: Denial of Motion for New Trial.
11/04/1994		Notice of assembly of record; mailed to App Crt per Rule 9(d) Notices
11/04/1994		mailed to John J. Conte, District Attorney and to Robert Hendrickson,
11/04/1994		pro se. Mailed to Appeals Court together with 2 certified copies of
11/04/1994		docket entries and Clerk's Statement of Case.
09/18/1995	23	Rescript rec'd from Appeals Court - Order denying Motion for New
09/18/1995	23	Trial AFFIRMED(Dated in Appeals Court 8/15/95) - copy to D.A. &
09/18/1995	23	Defendant.
03/03/1998		Motion (P#4) This motion is denied without hearing (Travers,J.) See
03/03/1998		motion in Docket #90-02251 for judge's endorsement. (Copy to DA, Atty
03/03/1998		Schubert & Defendant)
03/03/1998		Appearance of Deft's Atty: Schubert (See P#20 in Docket #90-02251)
10/22/1998		Atty Methe appointed by CPCS to review case to determine whether
10/22/1998		counsel should be appointed
09/03/1999		Deft files Motion to Vacate Guilty Plea and/or Admission to
09/03/1999		Sufficient Facts w/Memorandum of Law in Support and Affidavit of
09/03/1999		Robert Hendrickson w/attachments (See P#21 in Docket #90-02251)
10/12/1999		Deft files Motion for Marking Defendant's Request for a Hearing (See
10/12/1999		P#22 in Docket #90-02251)
10/12/1999		Deft files Motion for Writ of Habeas Corpus Ad-Testificandum (See
10/12/1999		P#23 in Docket #90-02251)
10/26/1999		Deft files Motion for Appointment of Counsel (See P#24 in Docket
10/26/1999		#90-02251)
11/29/1999		Motion (P#21) Denied (Donohue,J.) Copy to DA & Defendant (See P#21 in
11/29/1999		Docket #90-02251)
11/29/1999		Motion (P#22) Denied (Donohue,J.) Copy to DA & Defendant (See P#22 in
11/29/1999		Docket #90-02251)
11/29/1999		Motion (P#23) Denied (Donohue,J.) Copy to DA & Defendant (See P#23 in
11/29/1999		Docket #90-02251)
11/29/1999		Motion (P#24) Denied (Donohue,J.) Copy to DA & Defendant (See P#24 in
11/29/1999		Docket #90-02251)
11/29/1999		Order on Defendant's Motion for Appointment of Counsel - Denied
11/29/1999		(Donohue,J.) Copy to DA & Defendant (See P#25 in Docket #90-02251)
11/29/1999		ORDER on Defendant's Motion for a Writ of Habeas Corpus
11/29/1999		Ad-Testificandum - Denied (Donohue,J.) Copy to DA & Defendant (See
11/29/1999		P#26 in Docket #90-02251)
11/29/1999		ORDER on defendant's Motion for a Hearing Date - Denied (Donohue,J.)
11/29/1999		Copy to DA & Defendant (See P#27 in Docket #90-02251)
11/29/1999		ORDER on Defendant's Motion to Vactae Guilty Pleas and/or Admission

11/29/1999	to Sufficient Facts - Denied (Donohue,J.) Copy to DA & defendant (See
11/29/1999	P#28 in Docket #90-02551)
12/06/1999	Notice of appeal (P#21) (See P#29 in Docket #90-02251)
12/07/1999	Deft files Motion for Free Transcripts w/Affidavit of Indigency and
12/07/1999	Request for Waiver, Substitution or State Payment of Fees and Costs
12/07/1999	(See P#30 in Docket #90-02251)
10/09/2002	copy of pre-trial conference report sent on October 09, 2002 to
10/09/2002	defendant per his request (See case # 2250 for report on offenses
10/09/2002	90-2550-2256)
08/12/2003	Motion by Deft: for Free Transcript on Probation Surrender Hearing
08/12/2003	dated November 26, 1990 before Judge Mulkern and court reporter R.
08/12/2003	Fransecone on case 89-1964 (see case # 90-2251 P# 41)

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## Charges

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1 Charges for Docket: WOCR1990-02254

<b>No.</b>	<b>Charge Description:</b>	<b>Indictment:</b>	<b>Status:</b>
1	Assault & battery, dangerous weapon	WODA90-02254	Guilty verdict

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**Exhibit E**

**Commonwealth of Massachusetts  
WORCESTER SUPERIOR COURT  
Case Summary  
Criminal Docket**

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**Commonwealth v Hendrickson, Robert W**

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Details for Docket: WOCR1990-02255

**Case Information**

<b>Docket Number:</b>	WO�R1990-02255	<b>Caption:</b>	Commonwealth v Hendrickson, Robert W
<b>Entry Date:</b>	08/17/1990	<b>Case Status:</b>	Crim 1 (204 Worcester)
<b>Status Date:</b>	01/13/2004	<b>Session:</b>	Disposed (appeal denied)
<b>Lead Case:</b>	NA	<b>Deadline Status:</b>	Deadline act
<b>Trial Deadline:</b>	09/25/1995	<b>Jury Trial:</b>	NO

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**Parties Involved**

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2 Parties Involved in Docket: WOCR1990-02255

<b>Party Involved:</b>		<b>Role:</b>	Defendant
<b>Last Name:</b>	Hendrickson	<b>First Name:</b>	Robert W
<b>Address:</b>		<b>Address:</b>	
<b>City:</b>		<b>State:</b>	
<b>Zip Code:</b>		<b>Zip Ext:</b>	
<b>Telephone:</b>			

<b>Party Involved:</b>		<b>Role:</b>	Plaintiff
<b>Last Name:</b>	Commonwealth	<b>First Name:</b>	
<b>Address:</b>		<b>Address:</b>	
<b>City:</b>		<b>State:</b>	
<b>Zip Code:</b>		<b>Zip Ext:</b>	
<b>Telephone:</b>			

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**Attorneys Involved**

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No Attorneys found for Docket: WOCR1990-02255.

There are currently no attorneys associated with this case.

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## Calendar Events

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No Calendar Events found for Docket: WOCR1990-02255.

There are currently no calendar events associated with this case.

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## Full Docket Entries

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85 Docket Entries for Docket: WOCR1990-02255

Entry Date:	Paper No:	Docket Entry:
08/17/1990	1	Indictment returned
10/24/1994		Notice of assembly of record; mailed to App Crt per Rule 9(d) RE:
10/24/1994		Denial of Motion for New Trial - Notices mailed to John J. Conte,
10/24/1994		District Attorney and to Defendant, Robert Hendrickson, pro se.
10/24/1994		Mailed to Appeals Court together with 2 certified copies of docket
10/24/1994		entries & Clerk's Statement of Case.
10/27/1994		Case entered in Appeals Court on 10/25/94. App. Crt. No. 94-P-1749.
09/18/1995		Rescript rec'd from Appeals Court - Order denying Motion for New
09/18/1995		Trial AFFIRMED(Dated in Appeals Court on 8/15/95)(See Mo. #19 in case
09/18/1995		#90-2251)
09/03/1999		Deft files Motion to Vacate Guilty Plea and/or Admission to
09/03/1999		Sufficient Facts w/Memorandum of Law in Support and Affidavit of
09/03/1999		Robert Hendrickson w/attachments. (see P#21 in Docket #99-02251)
10/12/1999		Deft files Motion for Marking Defendant's Request for a Hearing (See
10/12/1999		P#22 in Docket #90-02251)
10/12/1999		Deft files Motion for Writ of Habeas Corpus Ad-Testificandum (See
10/12/1999		P#23 in Docket #90-02251)
10/12/1999		Deft files Motion for Appointment of Counsel (See P#24 in Docket
10/12/1999		#90-02251)
11/29/1999		Motion (P#21) Denied (Donohue,J.) Copy to DA & Defendant (See P#21 in
11/29/1999		Docket #90-02251)
11/29/1999		Motion (P#22) Denied (Donohue,J.) Copy to DA & Defendant (See P#22 in
11/29/1999		Docket #90-02251)
11/29/1999		Motion (P#23) Denied (Donohue,J.) Copy to DA & Defendant (See P#23 in
11/29/1999		Docket #90-02251)
11/29/1999		Motion (P#24) Denied (Donohue,J.) Copy to DA & Defendant (See P#24 in



11/29/1999	Docket #90-02251)
11/29/1999	ORDER on Defendant's Motion for Appointment of Counsel - Denied
11/29/1999	(Donohue,J.) Copy to DA & Defendant (See P#25 in Docket #90-02251)
11/29/1999	ORDER on Defendant's Motion for Writ of Habeas Corpus
11/29/1999	Ad-Testificandum - Denied (Donohue,J.) Copy to DA & Defendant (See
11/29/1999	P#26 in Docket #90-02551)
11/29/1999	ORDER on Defendant's Motion for a Hearing Date - Denied (Donohue,J.)
11/29/1999	Copy to DA & Defendant (See P#27 in Docket #90-02251)
11/29/1999	ORDER on Defendant's Motion to Vacate Guilty Pleas and/or Admission
11/29/1999	to Sufficient Facts - Denied (Donohue,J.) Copy to DA & Defendant (See
11/29/1999	P#28 in Docket #90-02251)
12/06/1999	Notice of appeal (P#21) (See P#29 in Docket #90-02251)
12/07/1999	Deft files Motion for Free Transcripts w/Affidavit of Indigency and
12/07/1999	Request for Waiver, Substitution or State Payment of Fees and Costs
12/07/1999	(See P#30 in Docket #90-02251)
01/06/2000	Motion (P#30) Allowed (Donohue,J.)
01/11/2000	Court Reporter Ron Francescone is hereby notified to prepare one copy
01/11/2000	of the transcript of the evidence of 11/26/1990 per Allowed Motion
01/11/2000	P#30.
02/01/2000	Transcript received from ron Francescone, 2 volumes, November 26,1990.
02/11/2000	Record assembled. Notices mailed to John J. Conte, District Attorney
02/11/2000	and to Robert Hendrickson, Pro se. Notice under Appellate Rule 9(d)
02/11/2000	mailed to Appeals Court together with the Denied motion, 2 Certified
02/11/2000	copies of docket entries, Clerk's Statement of Case & Notice of Appeal
02/16/2000	Case entered in Appeals Court 2/15/00, #00-286
10/09/2002	copy of pre-trial conference report sent on October 09, 2002 to
10/09/2002	defendant per his request (See case # 2250 for report on offenses
10/09/2002	90-2550-2256)
01/09/2003	Defendant files Motion to Withdraw Guilty Plea and Order a New Trial,
01/09/2003	Affidavit in Support, Memorandum of Law and incorporated Exhibits
01/09/2003	"A" through "D" and certificate of service (See case 1990-2251, P#33)
01/09/2003	Deft files Motion for Appointment of Counsel (P#34)
01/09/2003	Deft files Motion for an Evidentiary Hearing (#35)
01/16/2003	Motion (P#33) denied as waived (See Order) (Francis R. Fecteau,
01/16/2003	Justice (R.A.J.)). Copies mailed to DA and Defendant (See Case #
01/16/2003	90-2251)
01/16/2003	Re: (P#34) In light of action on Paper # 33, no action is necessary.
01/16/2003	(Fecteau,J) (Copies sent to DA and deft) (See case #90-2251)
01/16/2003	Re: (P#35) In light of action on Paper # 33, no action is necessary.
01/16/2003	(Fecteau,J) (Copies sent to DA and deft) (See case #90-2251)
01/16/2003	ORDERED: on defendant's Motion to Withdraw Guilty Plea and Order a

01/16/2003	New Trial (The issues alleged by the defendant's present motion are
01/16/2003	deemed waived - See Order) (See Case # 90-2251 P#36) (Francis R.
01/16/2003	Fecteau, Justice (R.A.J.)) (copies sent to DA and defendant)
01/28/2003	NOTICE of APPEAL (Denial of Motion for New Trial) FILED (see P#37,
01/28/2003	case #90-2251)
02/13/2003	Notice of assembly of record; mailed to Appeals Court per Rule 9(d)
02/13/2003	(copies to DA, prob & deft) (see P#38, case #90-2251)
02/21/2003	Notice of Entry of appeal received from the Appeals Court No.
02/21/2003	2003-P-0227 (See case # 90-2251 P#39)
03/07/2003	General correspondence regarding defendant's sent two (2) appellate
03/07/2003	briefs / one (1) was sent to the District Attorney's Office and the
03/07/2003	other place in the file (see case #90-02251 P#40)
08/12/2003	Motion by Deft: for Free Transcript on Probation Surrender Hearing
08/12/2003	dated November 26, 1990 before Judge Mulkern and court reporter R.
08/12/2003	Fransecone on case 89-1964 (see case # 90-2251P# 41)
01/13/2004	Rescript received from Appeals Court; judgment AFFIRMED Order denying
01/13/2004	motion to withdraw guilty plea and order new trial affirmed (see
01/13/2004	case 90-2251 P#42)

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## Charges

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1 Charges for Docket: WOCR1990-02255

<b>No.</b>	<b>Charge Description:</b>	<b>Indictment:</b>	<b>Status:</b>
1	Kidnap	WODA90-02255	Guilty plea

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**Exhibit F**

**Commonwealth of Massachusetts  
WORCESTER SUPERIOR COURT  
Case Summary  
Criminal Docket**

**Commonwealth et al v Hendrickson, Robert W**

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Details for Docket: WOCR1990-02256

**Case Information**

<b>Docket Number:</b>	WO CR1990-02256	<b>Caption:</b>	Commonwealth et al v Hendrickson, Robert W
<b>Entry Date:</b>	08/17/1990	<b>Case Status:</b>	Crim 1 (204 Worcester)
<b>Status Date:</b>	09/18/1995	<b>Session:</b>	Disposed (appeal denied)
<b>Lead Case:</b>	NA	<b>Deadline Status:</b>	Deadline act
<b>Trial Deadline:</b>	08/30/1993	<b>Jury Trial:</b>	NO

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**Parties Involved**

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3 Parties Involved in Docket: WOCR1990-02256

<b>Party Involved:</b>		<b>Role:</b>	Defendant
<b>Last Name:</b>	Hendrickson	<b>First Name:</b>	Robert W
<b>Address:</b>	NCCI Gardner	<b>Address:</b>	P.O. Box 466
<b>City:</b>	Gardner	<b>State:</b>	MA
<b>Zip Code:</b>	01440	<b>Zip Ext:</b>	
<b>Telephone:</b>			

<b>Party Involved:</b>		<b>Role:</b>	Plaintiff
<b>Last Name:</b>	Commonwealth	<b>First Name:</b>	
<b>Address:</b>		<b>Address:</b>	
<b>City:</b>		<b>State:</b>	MA
<b>Zip Code:</b>		<b>Zip Ext:</b>	
<b>Telephone:</b>			

<b>Party Involved:</b>		<b>Role:</b>	Plaintiff
<b>Last Name:</b>	Commonwealth	<b>First Name:</b>	
<b>Address:</b>		<b>Address:</b>	

**City:****State:****Zip Code:****Zip Ext:****Telephone:**

## Attorneys Involved

No Attorneys found for Docket: WOCR1990-02256.

There are currently no attorneys associated with this case.

## Calendar Events

No Calendar Events found for Docket: WOCR1990-02256.

There are currently no calendar events associated with this case.

## Full Docket Entries

66 Docket Entries for Docket: WOCR1990-02256

Entry Date:	Paper No:	Docket Entry:
08/17/1990	1	Indictment returned
11/26/1990		RE offense 1: Guilty verdict
08/30/1993		Continued from docket sheet
08/30/1993		Notice of assembly of record; mailed to App Crt per Rule 9(d)
08/30/1993		together with certified copies of docket entries and Clerk's
08/30/1993		Statement of Case.
01/26/1994		Dismissal under Standing Order #17A filed(Dated in Appeals Court on
01/26/1994		1/7/94)(See Mo. #20 in case #90-2254)
10/24/1994		Deft files Motion for a New Trial Pursuant to Mass.R.Crim.P. 30 and
10/24/1994		Affidavit in Support and Brief in Support, filed.(See Mo. #21 in case
10/24/1994		#90-2254)
10/28/1994		(see case 90-2251 P#21) - This Motion will not be considered. The
10/28/1994		defendant filed a Motion for New Trial 7/21/92(after the denial of
10/28/1994		his direct appeal on 5/15/91). It was Denied 7/23/92 by the trial
10/28/1994		judge. He noticed an appeal 8/11/92. After the trial judges
10/28/1994		retirement, he filed a Motion to Amend his Motion for New Trial on
10/28/1994		9/17/92. This justice Denied it 3/1/93. The Appeals Court Dismissed
10/28/1994		his appeal 1/7/94. He now files this Second Motion for New Trial, all

10/28/1994	of the grounds asserted were well known prior to his previous
10/28/1994	motion(Travers,J.) - Notified D.A. and Defendant.
11/04/1994	Notice of appeal RE: Denial of Motion for New Trial.(See Mo. #22 in
11/04/1994	case #90-2254)
11/04/1994	Notice of assembly of record; mailed to App Crt per Rule 9(d) Notices
11/04/1994	mailed to John J. Conte, District Attorney and to Robert Hendrickson,
11/04/1994	pro se. Mailed to Appeals Court together with 2 certified copies of
11/04/1994	docket entries and Clerk's Statement of Case.
09/18/1995	Rescript rec'd from Appeals Court - Order denying Motion for New
09/18/1995	Trial AFFIRMED(Dated in Appeals Court 8/15/95)(See Mo. #23 in case
09/18/1995	#90-2254)
10/09/2002	copy of pre-trial conference report sent on October 09, 2002 to
10/09/2002	defendant per his request (See case # 2250 for report on offenses
10/09/2002	90-2550-2256)
08/12/2003	Motion by Deft: for Free Transcript on Probation Surrender Hearing
08/12/2003	dated November 26, 1990 before Judge Mulkern and court reporter R.
08/12/2003	Fransecone on case 89-1964 (see case # 90-2251 P# 41)
08/18/2003	copies sent to the deft on #'s 89-1694 -, 90-2251 and 90-2256 per his
08/18/2003	request
04/08/2004	Motion by Deft: for Release from Unlawful Restraint with Affidavit
04/08/2004	and Memorandum in support of (see case # 90-2511 P#43)
04/08/2004	Motion for appointment of counsel (see case # 90-2251 P#44)
05/04/2004	Motion by Deft: to release from unlawful restraint with affidavit and
05/04/2004	memorandum in support of (see case 90-2251 P#45)
05/04/2004	Motion for appointment of counsel (see case # 90-2256 P#46)
06/15/2004	Motion Re: P# 43 - The Commonwealth shall have 45 days within which
06/15/2004	to file a responsive pleading (McCann,J) (see case # 90-2256)
06/15/2004	Motion Re: P#45 Commonwealth shall have 45 days within which to file
06/15/2004	an opposition (McCann,J) (see case # 90-2251)
07/21/2004	Motion by Deft: for interlocutory hearing of evidence with affidavit
07/21/2004	in support of (sent to Judge McCann) (see case 90-2251 P#47)
07/28/2004	Motion by Commonwealth: opposition to defendant's motion to release
07/28/2004	from unlawful restraint (sent to Judge McCann) (see case # 90-2251
07/28/2004	P#48)
07/29/2004	Motion (P#47) denied (McCann, Justice). Copies mailed to DA and deft
07/29/2004	(see case # 90-2251)
07/29/2004	Motion (P#48) Defendant's motion to be released from unlawful
07/29/2004	restraint is denied setforth in the Commonwealth Opposition. (McCann,
07/29/2004	Justice). Copies mailed to DA and the deft (see case # 90-2251)
07/30/2004	Motion by Deft: rebuttal to the Commonwealth's opposition (sent to
07/30/2004	Judge McCann) (see case # 90-2251 P# 49)

08/06/2004	Motion for appointment of counsel (see case # 90-2251 P#50)
08/06/2004	Motion by Deft: for declaratory judgement and for a writ of habeas
08/06/2004	corpus with release from unlawful restraints pursuant to MGL 231(A)
08/06/2004	s1 et, al with affidavit and memorandum in support of (see case #
08/06/2004	2251 P#51)
08/18/2004	Motion (P#50) Refer to CPCS for screening (McCann,J) (see case
08/18/2004	#90-2251)

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## Charges

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1 Charges for Docket: WOCR1990-02256

<b>No.</b>	<b>Charge Description:</b>	<b>Indictment:</b>	<b>Status:</b>
1	Mayhem	WODA90-02256	Guilty verdict

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**Exhibit G**



\*722 749 N.E.2d 722

51 Mass.App.Ct. 1115

NOTICE: THIS IS AN UNPUBLISHED OPINION.

Appeals Court of Massachusetts.

**COMMONWEALTH**

v.

**Robert HENDRICKSON.**

No. 00-P-286.

June 19, 2001.

By the court (GREENBERG, GILLERMAN &amp; RAPOZA, JJ.).

MEMORANDUM AND ORDER PURSUANT TO  
RULE 1:28

Following a jury trial in the Superior Court, on November 26, 1990, the defendant was convicted of mayhem and assault and battery by means of a dangerous weapon. (FN1) Later the same day, he entered guilty pleas on charges of aggravated rape, indecent assault and battery, and kidnapping. The defendant now comes before us appealing from the denial of what amounts to his fifth request overall for postconviction relief and his third relative to his change of plea. He argues that the original judge erred in accepting his guilty pleas with an oral, but not a written, waiver of his right to trial by jury. We affirm.

As we have noted, this is not the defendant's first attempt to obtain relief regarding his change of plea. In 1991, he filed a motion, amended in 1992, to withdraw his guilty pleas and for a new trial, raising several grounds, including claims that his pleas were neither knowing nor voluntary, and that his counsel was ineffective. The judge who took his pleas heard and denied the motion. The defendant appealed and we affirmed the judge's ruling in a memorandum and order issued pursuant to Appeals Court Rule 1:28. *Commonwealth v. Hendrickson*, 34 Mass.App.Ct. 1112 (1993). The Supreme Judicial Court subsequently denied further appellate review. *Commonwealth v. Hendrickson*, 415 Mass. 1101 (1993). In 1994, the defendant filed two additional motions for new trial, both of which were denied. (FN2) Again, we affirmed the orders denying both motions in two decisions issued pursuant to Appeals Court Rule 1:28, *Commonwealth v. Hendrickson* (No. 1), 39 Mass.App.Ct. 1104 (1995) and *Commonwealth v. Hendrickson* (No. 2), 39 Mass.App.Ct. 1104 (1995).

The Supreme Judicial Court subsequently denied further appellate review as to both. *Commonwealth v. Hendrickson* (No. 1), 421 Mass. 1106 (1995); *Commonwealth v. Hendrickson* (No. 2), 422 Mass. 1101 (1996).

The defendant's third request for postconviction relief relative to his change of plea presents no issues which could not have been raised in his previous two motions. Having failed "to raise all known and available claims of error at the earliest possible time," the issue advanced in the motion before us is deemed waived. *Commonwealth v. Lowe*, 405 Mass. 1104, 1104-1105 (1989). See also Mass.R.Crim.P. 30(c)(2) ("All grounds for relief claimed by a defendant ... shall be raised by the defendant in his original or amended motion. Any grounds not so raised are waived.").

Even if we were to entertain the defendant's claim on the merits, he would not prevail. His assertion that the plea judge failed to comply with the provisions of G.L. c. 263, § 6 by not requiring a written waiver of his right to a jury trial is without merit. G.L. c. 263, § 6 requires the execution of a jury trial waiver only in cases where the defendant forgoes that right in order to permit a judge to try his case without a jury. As we have previously said, "[i]n G.L. c. 263, § 6, the Legislature has expressed a definite policy as to the required procedure for conducting a criminal trial without a jury." *Commonwealth v. Wheeler*, 42 Mass.App.Ct. 933, 935 (1997) (emphasis supplied). Compare Mass.R.Crim.P. 19(a) ("A case in which the defendant has the right to be tried by a jury shall be so tried unless the defendant waives a jury trial in writing with the approval of the court and files the waiver with the clerk, in which instance he shall be tried by the court instead of by a jury." emphasis supplied). In the context of a change of plea, the defendant's oral waiver of his right to jury trial was sufficient.

*Order denying motion to vacate guilty pleas affirmed.*

(FN1.) We affirmed the defendant's convictions in a memorandum and order pursuant to Appeals Court Rule 1:28. *Commonwealth v. Hendrickson*, 32 Mass.App.Ct. 1117 (1992).

\*722\_ (FN2.) The first, filed on September 13, 1994, cited ineffective assistance of counsel relative to his plea. The second, filed on October 28, 1994, challenged his original convictions on several grounds, including alleged irregularities in the execution of the verdict slips.

**Exhibit H**

800 N.E.2d 346, 60 Mass.App.Ct. 1107, Com. v. Hendrickson, (Mass.App.Ct. 2003)

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**\*346** 800 N.E.2d 346

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60 Mass.App.Ct. 1107

*MEMORANDUM AND ORDER  
PURSUANT TO RULE 1:28*

NOTICE: THIS IS AN UNPUBLISHED OPINION.

Appeals Court of Massachusetts.

**COMMONWEALTH,**

**v.**

**Robert W. HENDRICKSON.**

For the reasons stated in the Commonwealth's brief, in particular pages six through thirteen, we affirm the denial of the defendant's fourth motion for a new trial.

*Order denying motion to withdraw guilty plea and order new trial affirmed.*

**Exhibit I**

805 N.E.2d 44, 441 Mass. 1104, Com. v. Hendrickson, (Mass. 2004)

Page 1

\*44 805 N.E.2d 44

441 Mass. 1104

(The Court's decision is referenced in a "Supreme Judicial Court of Massachusetts Further Appellate Review" table in the North Eastern Reporter.)

Supreme Judicial Court of Massachusetts.

**Commonwealth**

**v.**

**Robert W. Hendrickson**

March 10, 2004

Appeal From: 60 Mass.App.Ct. 1107, 800 N.E.2d 346.

DENIED.